

SENATE BILL REPORT

SB 6251

As Reported by Senate Committee On:
Financial Institutions, Housing & Insurance, January 20, 2010

Title: An act relating to nonresident surplus line brokers and insurance producers.

Brief Description: Concerning nonresident surplus line brokers and insurance producers.

Sponsors: Senator Benton; by request of Insurance Commissioner.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 1/19/10, 1/20/10 [DPS].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: That Substitute Senate Bill No. 6251 be substituted therefor, and the substitute bill do pass.

Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin, McDermott, Parlette and Schoesler.

Staff: Diane Smith (786-7410)

Background: A surplus line insurer is an insurance company that does not have a certificate of authority issued by the Insurance Commissioner to transact business in the state and may only operate under certain rules, specified by statute. The insurance offered by a surplus line broker must be of a type that is not available from authorized insurers, and the broker who sells this insurance must be licensed as a surplus line broker.

Applicants for licensure as resident and nonresident surplus line brokers and as resident and nonresident insurance producers must submit fingerprints as evidence of identity. However, the commissioner must waive both the license application requirements and fingerprinting requirements for nonresident insurance producers when the nonresident applicant has a valid license in another state, if the other state has application requirements of the same basis and also requires fingerprinting. The commissioner must also waive fingerprinting on the same basis for surplus line brokers.

Some of the same provisions applying both to resident and nonresident surplus line brokers are the expiration of the license if it is not timely renewed; the length of time for which the license is valid; and the request and fee for renewal of the license. These provisions for

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nonresident surplus line brokers are referenced to the statute applying to resident surplus line brokers. The statute referenced references a third statute for the fee for renewal.

The nonresident surplus line broker must appoint the commissioner for service of legal process. Details of the accomplishment and processing of legal process are specified.

The nonresident producer and title insurance agent must appoint the commissioner as attorney to receive service of legal process. But for stylistic differences, both (1) the nonresident producer and title agent, and (2) the nonresident surplus line broker have the same details of the accomplishment and processing of legal process.

Licensed insurance producers have bonding requirements.

Summary of Bill (Recommended Substitute): The licensing requirements for resident surplus line brokers are clarified to be for resident surplus line brokers. The employer of any resident surplus line broker is broadened to include business entities other than firms or corporations.

The requirements for licensure of nonresident surplus line brokers do not include fingerprinting or bonding. Rather than referencing the requirements for the expiration of the license if it is not timely renewed and the length of time for which the license is valid, those provisions from the resident surplus line broker provisions are copied into the same nonresident provisions. The reference to the resident surplus line broker provisions for the fee for renewal is retained.

By virtue of applying for and receiving a license as a nonresident surplus line broker, the broker is deemed to have appointed the commissioner as the broker's agent for service of process. Any successors in interest to the surplus line broker are also bound by this appointment. The details of service of legal process are deleted with reference instead made to a general provision for service of process.

A general provision for accomplishment and processing of legal process is created. But for stylistic differences, it is the same as the requirements for (1) the nonresident producer and (2) the nonresident surplus line broker, except that no return receipt is required if the service is forwarded by mail; forwarding by electronic means is allowed.

Reciprocity provisions for applicants for nonresident insurance producer licenses are clarified.

The title insurance business must designate an individual officer to be responsible for the business's compliance with the insurance code.

EFFECT OF CHANGES MADE BY FINANCIAL INSTITUTIONS, HOUSING & INSURANCE COMMITTEE (Recommended Substitute): It is clarified that an individual officer of a title insurance agent must be designated to be responsible for the business's compliance with the insurance code.

Any forwarding of service of process by the commissioner must be done in a manner that is secure and with a receipt that is verifiable.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 26, 2010.

Staff Summary of Public Testimony on Original Bill: PRO: This bill allows the commissioner to recognize other states' licensing processes so that full reciprocity can result. Service of process provisions allows the commissioner to convey service by electronic mail. An amendment is requested to make electronic means of forwarding service of process secured and verifiable. This bill reduces the regulatory red tape and burden on independent insurance agents. The process of interaction between government and licensees is improved, as is the ability to provide better service to the public.

Persons Testifying: PRO: Drew Bouton, Office of Insurance Commissioner; Bill Stauffacher, Independent Insurance Agents and Producers of Washington.